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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of U S WEST)
Communications, Inc. Petition for)
Forbearance from Application of Section) CC Docket No. 96-149
272 of the Communications Act of 1934, as)
Amended, to Previously Authorized)
Services)

REPLY COMMENTS OF U S WEST COMMUNICATIONS, INC.

U S WEST Communications, Inc. ("U S WEST") hereby submits this Reply to the Comments of AT&T Corp. ("AT&T") and MCI Telecommunications Corporation ("MCI") on its Supplemental Petition for Forbearance ("Supplemental Petition").¹

In its Supplemental Petition, U S WEST demonstrated that its request for forbearance of the separation requirements of Section 272 for E911 service meets the three-pronged test of Section 10(a) of the Communications Act. AT&T and MCI challenge that showing on different bases. Neither challenge withstands even cursory analysis. The Federal Communications Commission ("Commission") should grant forbearance.

As an initial matter, we note with dismay AT&T's and MCI's disregard for the public interest in their responses to U S WEST's Supplemental Petition. AT&T

¹ Comments of AT&T and MCI filed herein July 22, 1997. U S WEST Supplemental Petition for Forbearance filed herein June 30, 1997. And see Public Notice, Pleading Cycle Established For Comments On Supplemental Showings In Connection With Pending Ameritech, Bell Atlantic, BellSouth, NYNEX, and U S WEST Petitions For Forbearance From Application Of Section 272 Of The Act To Previously Authorized Services, DA 97-1403, rel. July 3, 1997.

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pays lip service to the notion that “E911 is a vital service.”² Yet its comments give no significance to that obvious fact. Both AT&T and MCI wish to have the Commission treat E911 as if it were just another information service; they seek a result here that will best further their own competitive strategies. The Commission might appropriately take such an approach in the case of a purely commercial service, such as reverse search, but it is wholly inappropriate with E911, where lives are – quite literally – at stake.

AT&T complains that U S WEST (and the other Bell Operating Companies (“BOC”) who seek forbearance for E911 service) have failed to demonstrate that their petitions for forbearance meet the statutory criteria. AT&T is wrong. Section 10(a) prescribes three criteria for forbearance; U S WEST’s request for forbearance from the application of Section 272 to E911 meets all of them:

- Application of Section 272 is not necessary to ensure that U S WEST’s charges, practices, classifications, or regulations in conjunction with its provision of E911 are just, reasonable and not unjustly or unreasonably discriminatory. In its Supplemental Petition, U S WEST noted that it has provided E911 on an integrated basis for many years; granting the instant Petition will allow it to continue to provide E911 as it always has. The service will remain subject to state regulation – as it always has been – and the state commissions (and the Commission) will be available to hear complaints that U S WEST is subjecting the service to unreasonable practices, or discriminating in its provision. Imposing the separate

² AT&T at 3.

affiliate requirements of Section 272 can have no positive impact on that.

- Application of Section 272 is not necessary to protect consumers. For the same reasons, providing E911 by means of a separate affiliate is not necessary to protect consumers. The state commissions will continue to regulate the service to ensure that the service is available to the public on reasonable terms and at reasonable rates. Imposing the separation requirements of Section 272 on the provision of the service can have no positive impact on that circumstance. Indeed, because it will inevitably drive up the cost of providing E911 service, a point even AT&T concedes,³ applying Section 272 to E911 will inevitably harm consumers.
- Forbearance is in the public interest. The provision of E911 service is in the public interest. Denying forbearance will increase the cost of providing that service,⁴ and no party has shown that such denial would advance the public interest. Hence, granting forbearance is in the public interest.

AT&T complains specifically that U S WEST has not demonstrated the impact of forbearance on the promotion of competitive market conditions, claiming Section 10(b) requires such a showing.⁵ It does not. Section 10(b) requires the Commission to consider “whether forbearance . . . will promote competitive market

³ Id. at 4.

⁴ Curiously, AT&T takes the position that added cost should have no bearing on forbearance. But given the indisputable (and undisputed) public-safety interest in E911 service, its cost obviously bears on the public interest concerns, the very issue AT&T devotes so much attention to in its Comments.

⁵ AT&T at 4.

conditions.” If that is the case, the Commission may determine, without more, that the application meets the public-interest criterion. But Section 10(b), by its terms, imposes no requirement on the applicant. It requires the Commission to make a finding. If an applicant wishes to rely on competitive impact to meet the public interest criterion, it would need to make a showing. Otherwise, nothing in the provision requires that. Note in this regard that the test can run only to the benefit of the applicant: Section 10(b) does not suggest that a negative finding regarding the promotion of competition requires denial. AT&T is thus wrong in claiming that Section 10(b) requires an applicant for forbearance to demonstrate the impact of forbearance on competition.

MCI’s Comments merely repeat its arguments that the Commission must condition forbearance on the application of the nondiscrimination obligations of Sections 272(c)(1) and 272(e) to the BOCs’ provision of E911 service. Specifically, MCI complains that BellSouth is denying it access to listings and databases necessary for MCI to provide its own reverse directory assistance services.⁶ That, of course, has nothing to do with U S WEST’s request for forbearance with respect to E911 service, and it provides no reason to impose additional nondiscrimination requirements on U S WEST’s provision of that service.

MCI also asserts a need for access to emergency numbers, in order to fulfill its own emergency operator service obligations, and the ability to upload its

⁶ MCI at 4.

customer records into E911 databases so that it can deliver E911 calls.⁷

Significantly, MCI does not claim that any BOC has denied it these items. In fact, U S WEST's standard interconnection agreement expressly addresses these matters to ensure that both carriers are able to fulfill their obligation to provide emergency services.

AT&T argues that the BOCs' "exclusive access" to unlisted telephone numbers for the provision of E911 service discriminates against other local exchange carriers ("LEC") who might want to provide that service.⁸ Again, U S WEST's standard interconnection agreement provides that, if the interconnecting LEC is responsible for providing E911 services within a county, the parties will separately negotiate the provisions necessary to enable that. That would necessarily include access to the unlisted numbers of U S WEST subscribers, and U S WEST would provide those numbers, so long as it had reasonable assurances that the other LEC would use them only for purposes of providing E911 service.

In any event, these issues provide no justification for the imposition of all the nondiscrimination obligations of Section 272. If the Commission feels the need, it can address them with much narrower, targeted conditions.

Finally, AT&T has mischaracterized one aspect of U S WEST's Supplemental

⁷ *Id.* MCI specifically claims a "need for access to the emergency numbers in the BOCs' E911 databases." What MCI actually needs is just the emergency numbers, so that its operators can dial the appropriate agency when they receive emergency calls. This has nothing to do with the E911 databases.

⁸ AT&T at 6, n.16.

Petition, claiming U S WEST argued that “only basic services are subject to § 271.”⁹ In fact, U S WEST merely noted that access to E911 service is a requirement of the “competitive checklist” in Section 271(c)(2)(B),¹⁰ which specifically refers to “access” and “interconnection,” and not to information or enhanced services.¹¹ In any case, the requirements of the checklist expressly apply only to a BOC, such as U S WEST; by definition, a separate affiliate cannot be a BOC. By including E911 in the checklist, Congress expressed its view that the BOCs would continue to provide that service.¹² Given that Congress also required the BOCs to provide interLATA information services in a separate affiliate,¹³ the checklist raises at least a question whether Congress intended that E911 should be considered an information service. Certainly, if a BOC were to move its E911 service to a separate affiliate (the effect of denying forbearance), the BOC would have no obligation to provide that service to other carriers.

The Comments of AT&T and MCI provide no basis to deny U S WEST forbearance as it has requested. We have demonstrated that forbearance will adversely affect neither the terms for the provision of E911, nor the public’s ability to use the service; indeed, we believe denying forbearance will more likely cause those adverse impacts. Forbearance is thus in the public interest (without regard to

⁹ AT&T at 5.

¹⁰ See 47 U.S.C. § 271(c)(2)(B)(vii)(I).

¹¹ Supplemental Petition at 4-5.

¹² Indeed, if a BOC were to cease providing E911, moving it instead to a separate affiliate, one must wonder whether AT&T and MCI would then claim that the BOC is not in compliance with the checklist for not providing access to that service.

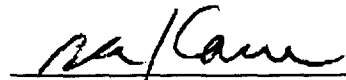
¹³ 47 U.S.C. § 272(a)(2)(C).

its impact on competition). The Commission should grant U S WEST's
Supplemental Petition.

Respectfully submitted,

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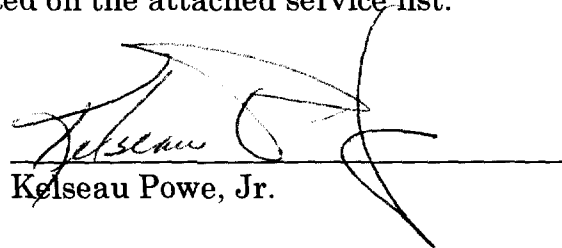
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August 5, 1997

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 5th day of August, 1997, I have caused a copy of the foregoing **REPLY COMMENTS OF U S WEST COMMUNICATIONS, INC.** to be served via first-class United States Mail, postage pre-paid, upon the persons listed on the attached service list.



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